



November 10, 1999

Mr. Mike Regan
Texas Funeral Service Commission
510 South Congress Avenue, Suite 206
Austin, Texas 78704-1718

OR99-3201

Dear Mr. Regan:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 128917.

The Texas Funeral Service Commission (the “commission”) received a written request for the “written minutes of and . . . tape recordings of meetings of [the commission] and its Complaint Review Committee for the previous three years.” You state that some of the requested records will be released to the requestor. You contend, however, that some of the responsive information is excepted from required public disclosure pursuant to sections 552.101 and 552.103 of the Government Code.

You indicate that the commission possesses minutes and tape recordings of both the public and executive sessions of the commission’s meetings, and contend the release of these records is governed by the Texas Open Meetings Act, chapter 551 of the Government Code. We agree.

Section 551.022 of the Government Code specifically provides:

The minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body’s chief administrative officer or the officer’s designee.

The minutes and tape recordings of the public portion of the commission’s meetings are specifically made public information by section 551.022, and therefore must be released to the public. Information specifically made public by statute may not be withheld from the public pursuant to any of the Public Information Act’s exceptions to public disclosure. *See, e.g.,* Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). The commission, therefore, must release all of the requested minutes and tape recordings of the

public portions of its meetings.¹ None of this information may be withheld pursuant to article 4582b, V.T.C.S.

On the other hand, the certified agendas or tape recordings of the executive sessions of the commission's meetings must be withheld in their entirety. Section 551.104(c) of the Government Code provides that the certified agenda and tape recording of an executive session is available for public inspection only under a court order requiring such a release. Accordingly, the commission must withhold the certified agendas or tape recordings of the executive sessions absent a court order instructing it to do otherwise.² *See also* Open Records Decision No. 495 (1988) (Open Meetings Act removes certified agendas and tapes of executive sessions from review by attorney general under Public Information Act).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Kay H. Hastings
Assistant Attorney General
Open Records Division

KHH/RWP/ljp

Ref.: ID# 128917

cc: Mr. Robert Tomsho
Wall Street Journal
1201 Elm Street, Suite 5050
Dallas, Texas 75270
(w/o enclosures)

¹We note that the commission has received several other open records requests that encompass the requested minutes and tape recordings at issue here. The commission should at this time release to those other requestors the same information held to be public here. This office will determine the public nature of the other records requested by those individuals in a subsequent ruling.

²Because we resolve your request under the provisions of the Texas Open Meetings Act, we need not address the applicability of the other exceptions you raised.